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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/478,006

01/05/2000

ARNAUD GOURDOL

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21839

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BUCHANAN INGERSOLL PC
(INCLUDING BURNS, DOANE, SWECKER & MATHIS)
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EXAMINER

DURAN, RONNY A

ART UNIT

PAPER NUMBER

2174

DATE MAILED: 06/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/478,006	Applicant(s) GOURDOL ET AL.	
	Examiner Ronny A. Duran	Art Unit 2174	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3, 8, 13, 27-29, 56 and 78-93 is/are pending in the application.
- 4a) Of the above claim(s) 78-93 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 3, 8, 13, 27-29 and 56 is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. Claims 3, 8, 13, 27-29, and 56 are pending.
2. Claims 1-2, 4-7, 9-12, 14-26, 30-55, and 57-77 have been cancelled.
3. Claims 78-93 have been withdrawn.

DETAILED ACTION

Election/Restrictions

1. Newly submitted claims 78-93 directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

Inventions I, "varying the size of a plurality of icon images displayed in a display device based upon a user preference value" (claims 3, 8, 13, 27-29, and 56), and II, "displaying a plurality of icons that respectively represent file system objects that can contain one or more items" (claims 78-93), are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, subcombination I has separate utility such as "designating a user preference value for each of the selected icons". In the instant case, subcombination II has separate utility such as "a plurality of icons that respectively represent file system objects that can contain one or more

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items", and "assigning relative display sizes...based upon the number of times contained" (claim 78) or "upon the amount of memory required to store said objects" (claim 80). See MPEP § 806.05(d).

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 78-93 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Allowable Subject Matter

2. Claims 3, 8, 13, 27-29, and 56 are allowed.

3. The following is a statement of reasons for the indication of allowable subject matter: Claims 3, 8, 13, 27-29, and 56 teach the specific equation of $(\text{max}-\text{min})/(\text{N}-1)$ wherein N is the number of applications given a preference, min is the minimum icon size, and max is the maximum icon size. Nowlan discloses a minimum and maximum size for icons (fig. 8) but fails to provide a preference for the number equation as taught by the Applicant. McComb (U.S. Patent 6,111,573) teaches dynamic sizing according to content (col. 7, lines 10-20) but fails to provided a specific sizing formula as taught by the Applicant. Morgan teaches dynamically adding icons (col. 2, lines 35-42) and

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container control (col. 1, lines 45-50) but fails to teach icon sizing as taught by the Applicant. Grossman teaches icons disappearing and reappearing based on usage (fig. 8 and 10). Grossman can be interpreted as a type of growing and shrinking. Grossman fails to teach use of a maximum and minimum formula based on number of applications as taught by the Applicant.

Response to Arguments

4. Applicant's arguments, see pgs. 12-14, with respect to claims 78-93, are directed to non-elected claims, and are therefore moot.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ronny A. Duran whose telephone number is (571) 272-4061. The examiner can normally be reached on 8 - 4:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kristine Kincaid can be reached on (571) 272-4063. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Ronny Duran
Patent Examiner
AU 2174

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